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Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ
By email: cberreview@cma.gov.uk

23rd February 2023

Dear Sir / Madam,

CMA's Consultation on Liner Shipping Consortia Block Exemption Regulation

I write on behalf of DP World, operator of two major ports in the UK, together moving the largest volume of containers of any port operator in the UK. Thank you for the opportunity to contribute to this consultation and comment on the proposed recommendations related to the retained Liner Shipping Consortia Block Exemption Regulation (the retained CBER).

Who we are

DP World in the UK is at the heart of Britain's trading future. We enable importers and exporters to move goods and materials smoothly and efficiently in and out of the UK and across their supply chains. Our direct customers are the shipping lines, who are the subject of this regulation.

We operate the UK's most advanced logistics hubs: two deep water ports at Southampton and London Gateway with access to freight rail terminals, and a rapidly expanding logistics park on the doorstep of the capital. This is supported by CNS, an advanced software platform providing online links to customers and Government systems.

Handling the shipping line services at our ports we make a major contribution to the UK economy, handling over £43 billion of goods a year. Taken together Southampton and London Gateway handle around 3.8 million TEUs per annum – that's over 400 containers every hour of every day and enough containers to stretch from London to Buenos Aires....and back.

We are committed to investing to serve supply chains serving the UK economy and accelerating progress in low carbon solutions. Over the last 10 years, £2billion has been invested by DP World in the UK. And over the next 10 years we have earmarked a further £1billion of investment.

Background and view on the CBER

We agree there should be a replacement for the retained CBER and support the proposal for a Liner Shipping Consortia Block Exemption Order (CBEO) to fulfill this requirement. Shipping is a global industry, and any UK policy needs to be closely aligned with our neighbouring policies in the EU, as well as taking account of other major trading nations/blocks. Misalignment of UK/EU policy risks loss of direct calls at UK ports, which could impact trade, jobs and efficiencies. All other points are secondary to this.

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The liner consortia agreements, focused on the joint provision of certain maritime services, allow for optimised routes and more effective capacity management, this is good for shipping and for the consumers in the UK. Port efficiency is not different between consortia and non-consortia (i.e. efficiency in handling vessels is the same) and port investments will generally not be different whether the shipping lines work together in consortia or not.

We agree with the conclusion in 4.12 that although freight rates increased dramatically during the Covid pandemic, this was likely not influenced by the existence of the CBER, it was merely a reflection of the tight supply/demand situation when after a period of low demand things quickly picked up and changed consumer behaviour led to additional demand (with an increased shock effect due to the temporary blockage of the Suez Canal). This is also demonstrated by the enormous reduction in freight rates now demand is falling.

Concluding Remarks

We support the recommendation made by the CMA to replace the CBER with a CBEO which is broadly based on the existing exemption. We agree that allowing the CBER expiry without a replacement would not be in best interest of the UK and could potentially reduce the calls to the UK and increase transshipment rates from the continent (which would also reduce efficiencies and increase emissions / miles travelled).

As always, we would welcome further engagement and input to the next steps that come out of this process.

Yours faithfully,

[Signature]

UK Commercial Director
DP World

Enc.
DP World Written response to the consultation



Appendix: Consultation Questions

General recommendation

Policy question

Question 1: Do you agree with the CMA's proposed recommendation to the Secretary of State to make a block exemption order to replace the retained CBER?

Yes, we agree with the proposed recommendation to the Secretary of State to make a block exemption order to replace the retained CBER.

Impact Questions

Question 2: Relative to current arrangements, if the retained CBER were allowed to expire, how would the absence of legal certainty and clarity affect your business or those that you represent? Please describe the scale of any legal or expert advice needed (eg time spent with consultants).

No comment.

Question 3: Please describe the business channels through which the retained CBER currently affects UK consumers. How would UK consumers be affected if the retained CBER were allowed to expire?

In the absence of the CBER it may be more difficult for smaller individual shipping lines to provide regular weekly container shipping services between the UK and overseas ports and only allow the largest shipping lines to provide such services and only on the largest routes. This would reduce the supply of services in general and may lead to smaller routes no longer being serviced. This would ultimately lead to increased costs for UK consumers.

Changes to the scope or definitions in the retained

CBER Policy Question

Question 4: Does the scope of the retained CBER, set out in Article 1, require modification or updating? Please provide the evidence and reasoning behind your answer.

No comment.

Question 5: Do any of the definitions set out in Article 2 of the retained CBER require modification? Please provide the evidence and reasoning behind your answer.

No comment.



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Question 6: Does Article 3(4)(a) on the 'use of a computerised data exchange system' require updating? If so, how could further clarity be offered? Please provide the evidence and reasoning behind your answer.

We don't believe Article 3(4)(a) requires updating. It has become very common in the industry to share electronic data with vertical partners in the supply chain, including Government Agencies, often using Port Community Systems as a platform. This data is strictly separated from visibility by other shipping lines, if only because this is commercially sensitive data. High level non-commercially sensitive cargo information is shared within vessel sharing agreements to allow optimal vessel stowage and access to essential information on dangerous goods and temperature controlled goods. We are not aware of data being shared primarily or exclusively for the commercial benefit of consortia members.

Question 7: Do any other aspects of the exempted agreements set out in Article 3 of the retained CBER require updating? If so, which aspects need modification? Please provide the evidence and reasoning behind your answer.

No comment.

Hardcore Restrictions

Policy questions

Question 8: Do you agree with the CMA's recommendation to retain the current hardcore restrictions in the retained CBER in any CBEO? If not, what are the reasons and evidence that would warrant a change to the current hardcore restrictions?

Yes.

Impact Questions

Question 9: Would retaining the current hardcore restrictions in any future CBEO present any possible issues for your business or those that you represent? Please provide the evidence and reasoning behind your answer, such as the expected costs or benefits that would accompany the current hardcore restrictions being retained in any future CBEO.

No comment.

Question 10: How would retaining the current hardcore restrictions in the proposed CBEO impact consumers?

a) Significant positive impact

Market definition and market share thresholds

Policy Questions

Question 11: Do you agree with the CMA's proposed recommendation to retain the current market share threshold in the proposed CBEO? If not, what are the reasons and evidence that warrant a change to the market share threshold in the proposed CBEO?

We agree with the proposed recommendation to retain the current market share.

Question 12: Separate to the 30% threshold, do the other conditions relating to market share set out in Article 5 remain appropriate and useful? If not, which aspects need modification? Are there any other changes that you consider should be made?

No comment.

Impact Questions

Question 13: What would be the likely impact on your business's operations or the operations of those you represent if the market share threshold was increased?

No comment.

Question 14: What would be the likely impact on your business's operations or the operations of those you represent if the market share threshold was decreased?

No comment.

Other Provisions

Policy Question

Question 15: Do you agree with the CMA's proposed recommendation that the current provisions of Article 6 of the retained CBER be maintained in any future CBEO? If not, what are the reasons and evidence that would warrant a change to these provisions?

No comment.

Duration of the retained CBER Policy Question

Question 16: The CMA invites views from interested stakeholders on the possibility of a CBEO without a fixed expiry date.

We agree that the CBEO should be without a fixed expiry date. This would allow the CMA to review the CBEO as required, rather than because of a specific timescale attached to the order. It may be



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that the review period needs to be shorter or longer, and this allows the flexibility to review the scheme when needed (although we also note that there is a need for businesses to be able to operate with some certainty and we would caution against a too short a review period or for changing anything within short lead in times). The main principle needs to remain that the UK regulation is aligned with the EU to avoid competitive disadvantages for UK ports.

Impact Questions

Question 17: What would be the likely impact on your business's operations or the operations of those you represent if any CBEO was not to include a fixed expiry date?

No comment.

Question 18: Please provide a short explanation highlighting your reasoning for your answer above.

No comment.

Other Provisions

Policy question

Question 19: The CMA invites views on the above proposed recommendations in respect of the other provisions in any CBEO

No comment.